



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

Release Number: **201411040**  
Release Date: 3/14/2014  
UIL Code: 501.06-01  
Date: December 18, 2013

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code section 501(a) as an organization described in Code section 501(c)(6). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law, and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at

1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Karen Schiller  
Acting Director, Exempt Organizations  
Rulings and Agreements

Enclosure  
Notice 437  
Redacted Proposed Adverse Determination Letter  
Redacted Final Adverse Determination Letter



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

Date: October 29, 2013

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

LEGEND

<u>Applicant</u>	=
<u>State</u>	=
<u>Region</u>	=
<u>Year</u>	=
<u>Date 1</u>	=
<u>Date 2</u>	=
<u>X</u>	=
<u>Y</u>	=
<u>A</u>	=
<u>B</u>	=
<u>C</u>	=
<u>D</u>	=

Dear :

We have considered your application for recognition of exemption from Federal income tax under § 501(a) of the Internal Revenue Code as an organization described in § 501(c)(6). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

You, Applicant, filed your Articles of Incorporation under the nonprofit corporation laws of State in Year. You filed your Restated Articles of Incorporation on Date 1.

You are a x-member group comprised of physicians, nurse practitioners, physician assistants, podiatrists, certified nurse anesthetists, and certified nurse midwives in over 100 clinics in Region. You list your activities and allocation of time spent in each activity as:

- Negotiates managed care contracts on behalf of the membership (30%)

- Conducts centralized credentialing process for members (25%)
- Promotes evidence based medicine and maintains practice guidelines to help guide medical decision making processes for your providers (25%)
- Obtains discounted rates on malpractice insurance, medical office supplies, general office supplies, group dental insurance, legal services, payroll/human resource management services, technology services and other areas that impact Applicant members (10%)
- Sponsors seminars relevant to members, which topics include coding, legal matters, technology and contract negotiation (10%)

In addition to the above services, you facilitate member access to individual financial planning, group purchasing discounts at commercial vendors, banking incentives, and technology support services. You also publish a quarterly newsletter to inform members of updates in your operations and the industry in general, and you provide members with a current directory of all your members. In addition, your members receive free access to a regional record database as a result of a merger involving a wholly-owned Applicant subsidiary.

You described multiple primary activities including: credentialing services for members, claims data analysis, sponsorship of health care seminars and negotiating third party payer contracts on behalf of your membership. You determined primary activities by the activity being "fundamental to COIPA assisting members improve their patients' health status, improve the quality of patient care and reduce healthcare costs." You state that your income is used to perform your credentialing services, to reimburse medical providers who participate in various committees and credentialing panels, and to fund a data software platform and a fulltime Health Quality Program Director. You state that 20% of your revenue is derived from dues and membership income, and that 10% of your revenue comes from the performance of your credentialing services.

In response to a request for how you determined the percentages of time and resources you allocated to your activities, you replied: "Applicant administration is comprised of an executive director, a medical director, a health quality program director, an office manager, a credentialing manager and a temporary credentialing assistant." You then provided, for each activity, a listing of the Full-Time Employees assigned to each activity and also payments made in regard to that activity.

You were asked to provide an analysis of what proportion of your income was expended to further each activity. You responded that: 40% of your income was dedicated to promote evidence-based medicine and maintain practice guidelines to help guide medical decision making processes for COIPA providers; 35% of your income was dedicated to negotiate managed care contracts on behalf of COIPA membership; 10% was dedicated to conduct centralized credentialing processes for members; 10% of your income was dedicated to Applicant sponsor seminars relevant to members, which topics include coding, legal matters, technology and contract negotiation; and 5% of your income was dedicated to obtain discounted rates on malpractice insurance, medical office supplies, general office supplies, group dental

insurance, legal services, payroll/human resource management services, technology services and other areas that impact Applicant members.

When asked for a breakdown of each activity according to income produced by the activity, you responded: A for negotiating managed care contracts on behalf of Applicant membership; B for conducting centralized credentialing process for members; C for obtaining discounted rates; and D for seminars relevant to members.

You indicated your initial purpose was to proactively deal with managed care, but that your membership and activities subsequently expanded. You state that you provide a valuable service to the health plans with whom you work by helping to contain healthcare costs. Your members pay a yearly fee to maintain membership, and must meet the requirements set forth in your Bylaws. These requirements include: licensure; hospital privileges at a hospital in your service area; call-share with members of the same specialty; primary residence in your y-county service area; and a minimum insurance coverage. Membership is voluntary, and not all eligible persons in Region are members.

## Law

Section 501(c)(6) of the Code provides for the exemption from federal income tax of business leagues, chambers of commerce, real-estate boards, and boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Treasury Regulation 1.501(c)(6)-1 defines a business league as an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league.

Rev. Rul. 56-65, 1956-1 C.B. 199 states that a local organization whose principle activity consists of furnishing particular information and specialized individual services to its individual members through publications and other means is performing particular services for individual persons. Such an exempt organization is therefore not entitled to exemption under § 501(c)(6).

Rev. Rul. 66-338, 1966-2 C.B. 74, describes an organization that provided members with an economy and convenience in the conduct of their individual businesses by enabling them to secure supplies, equipment, and services more cheaply than they would on an individual basis. These activities were found to constitute the performance of particular services for individual persons as prohibited under Treas. Reg. § 1.501(c)(6)-1. The organization's activities also constituted a business of a kind ordinarily carried on for profit, even though the activities were conducted on a cooperative basis, and produced only enough income for the organization to be self-sustaining. The organization was deemed to have failed the qualifications for exemption under § 501(c)(6) of the Code.

Rev. Rul. 74-81, 1974-1 C.B. 135, describes an organization whose principal activity was to provide its members with group workmen's compensation insurance underwritten by a private insurance company. In carrying out this activity, the organization relieved its members of having to obtain insurance on an individual basis, resulting in a convenience in the conduct of their businesses. The ruling holds that the organization therefore rendered particular services for individual persons, as distinguished from the improvement of business conditions in the contracting and related industries generally. As such it was not a business league within the meaning of § 501(c)(6).

In Rev. Rul. 86-98, 1986-2 C.B. 74, an individual practice association ("IPA") that provided health services through written agreements with health maintenance organizations ("HMO's") was found not to qualify for exemption as a business league under § 501(c)(6) of the Code. Membership in the IPA was limited to licensed physicians engaged in the active practice of medicine and who were members of a specified county medical society. Members generally maintained a private medical practice in addition to performing services for the association. All members were required to enter into written service contracts under which they were required to: (1) provide their professional services to the HMO patients in accordance with the a compensation agreement negotiated between the association and the HMO's; (2) share medical and other records, equipment, and staff; and (3) limit referrals of HMO patients, to the extent feasible, to other participating members. The IPA's billing and collection services provided an economy or convenience to its members relating to the operation of their private medical practices, and thus, it was primarily performing particular services for its members. The organization did not improve business conditions in the medical profession and public health area generally, because it did not improve conditions for all physicians in a particular community. Instead, the organization was akin to a billing and collection service and a collective bargaining representative that was principally devoted to maximizing fees for its members. Accordingly, the organization was determined not to be a business league as described in § 501(c)(6) and Treas. Reg. § 1.501(c)(6)-1.

In Apartment Operators Association v. Commissioner, 136 F.2d 435 (9th Cir. 1943), exemption as a business league was denied to an organization formed to facilitate the purchase of supplies and equipment and to supply management services for its members. The court found that the organization did not appear to answer the description of a business league. Among other things, the organization performed particular services for individual persons, as witnessed by activities that included the furnishing of credit information, the supplying of an apartment shopping service, the making of arrangements for direct purchases by members at discount, and similar activities.

In Louisiana Credit Union League v. U.S., 693 F.2d 525 (5th Cir. 1982), the Fifth Circuit affirmed the district court ruling that the League's insurance endorsement, and data processing and debt collection services were not substantially related to its exempt function. The benefits flowing from these services were restricted to the participating credit unions and for the primary purpose of earning money for the League. Because the benefits of these activities accrue only to certain credit unions, these activities constitute the performance of particular services of a commercial nature for individual members rather than the promotion of a common business interest with inherently group benefits. Tax exemption is based on the notion that a business league promotes a common business interest of all its members and does not perform particular services for individual persons.

In MIB, Inc. v. Commissioner, 734 F.2d 71 (1st Cir. 1984), the court denied exemption as a business league to an organization whose activities consisted of providing particular services to its members in the form of transmitting information that would be used in decisions affecting their business operations. The court held that the ultimate inquiry was whether the association's activities advanced the members' interests generally by virtue of their membership in the industry, or whether they assist members in the pursuit of their individual businesses. The fact that there may have been indirect and intangible benefits for the industry as a whole did not change the fact that the organization's services were in form and substance "particular services" for the members. The court reasoned that without the exchange members would themselves have to check insurance applications for their accuracy. It concluded that MIB performed particular services for individual persons, rather than for members collectively, and was not exempt from income tax as a business league. The organization was distinguished from "classical" business leagues of chambers of commerce and boards of trades, groups that chiefly perform services for members collectively rather than perform specific services for their members.

In Bluetooth Sig Inc., v. U.S., 611 F.3d 617 (9th Cir. 2010), the court held that Bluetooth SIG, Inc. (the "Association"), incorporated to advance its members' common business interest in the development and regulation of technical standards for the compatibility and interoperability of wireless products and devices within a wireless personal area network, was not a business league under section 501(c)(6) of the Code. It provided non-incidental services for particular members. The court found that the Association was developing and selling a product, the Bluetooth specification, much like a business ordinarily carried on for profit.

In Indiana Retail Hardware Assn., Inc. v. United States, 177 Ct. Cl. 288 (1966), the court held that "the high percentage of income obtained by the Association from performing particular services for individuals as a convenience and economy in their business and its other income-producing activities, and the amount of time devoted by employees of the Association to the performance of these services is sufficiently substantial so that the income-producing activities cannot be said to be merely incidental activities of the Association, but are one of its two main purposes." The court found that in consecutive years the organization derived 58% and 60% of its income from activities not for the common benefit of all, as compared to income from membership fees. The court stated "the fact that such a large percentage of the [organization's] income was derived from activities for the benefit of individuals [wa]s a strong indication that th[ose] activities were more than merely incidental".

## Analysis

You do not qualify for exemption as a business league under § 501(c)(6). The performance of particular services by an organization for its members or others is not an exempt activity under IRC 501(c)(6). While such activities do not preclude exemption in and of themselves, an organization whose primary activity is performing particular services is not exempt under IRC 501(c)(6). Your time, expenses, and income are primarily dedicated to or received as payment for the particular services of negotiating contracts with commercial managed care plans on behalf of your members and coordinating of credentialing for your members. The only service you offer to non-members is credentialing, and you do not advertise this service to non-

members. Your principal purpose is to engage in regular business of a kind ordinarily carried on for profit, rather than to promote a line of business.

The regulations define a business league as an association of persons, including legal entities such as trusts and corporations, having a common business interest. Its purpose is to promote the common business interest and not to engage in a regular business of a kind ordinarily carried on for profit. Its activities are directed to the improvement of business conditions of one or more lines of business rather than the performance of particular services for individual persons. Treas. Reg. § 1.501(c)(6)-1. Based on your representations, your revenue is primarily derived from negotiating contracts on behalf of your members. This activity comprises a primary part of your overall activities measured as a percentage of your time and revenue, and they are carried on in a manner that cannot be viewed as "merely incidental" activities of your organization. Indiana Retail, 177 Ct. Cl. 288. Your activities are primarily beneficial to your members (individual physicians, nurse practitioners, physician assistants, podiatrists, certified nurse anesthetists, and certified nurse midwives in over 100 clinics in Region), in the conduct of their private business activities. The activities are therefore, primarily directed to the performance of services for your individual members, rather than to the improvement of conditions in the general medical and health care communities or lines of business.

The information you have provided in your application and supporting attachments indicate you are similar to the IPA described in Rev. Rul. 86-98, supra. The organization in that revenue ruling required its members to provide their professional services to the HMO patients in accordance with a compensation agreement negotiated between the association and the HMO's. Likewise, you negotiate managed care contracts on behalf of your members and those members are required to perform according to the terms of those contracts. You have also established an information sharing platform for your members, as well as a centralized credentialing service, which accomplishes substantially the same type of increased efficiency as the sharing of records, equipment, and staff described in Rev. Rul. 86-98. And similar to the in-network referral policy of the organization in that revenue ruling, you require your members to participate in a members-only call share program.

You state that by providing credentialing services for your members, analyzing claims data provided to payers, and sponsoring health care seminars for your members (in addition to serving as a bargaining agent for those members), a benefit is provided to the entire medical community in the form of lower health care costs and improved business conditions. This assertion overlooks the substance of your activities and the benefits received by your individual members. Like the organization in Rev. Rul. 86-98, you do not improve business conditions in the medical profession and public health areas generally, because you do not improve conditions for all medical professionals in Region. Courts have found that a benefit to non-members is a key characteristic of a business league. Bluetooth Sig Inc., 611 F.3d at 624.

You assert that you merely act as a bargaining agent on behalf of your members in the negotiation of third party payer contracts. However, this is the same "collective bargaining representative" role carried on by the organization in Rev. Rul. 86-98, and this function comprises your primary activity in terms of time allocated and revenue earned. As held in Rev. Rul. 86-98, your organization is rendering particular services for individual persons as distinguished from the improvement of business conditions in the medical profession and public health area generally. Membership in the organization is restricted to medical professionals who are subject to the written service contract. You do not better conditions for all physicians in a



particular community, but, instead, are devoted to maximizing fees for your members. Therefore, you are not operated as a business league within the meaning of § 1.501(c)(6)-1 of the regulations.

As the court stated in MIB, Inc., 734 F.2d at 78, "[t]he ultimate inquiry is whether [an organization's] activities advance the members' interests generally, by virtue of their membership in the industry, or whether they assist members in the pursuit of their individual businesses." Like the organization in that case, you provide services and engage in activities that provide commercial benefits to your members in the form of decreased expenses and greater efficiency. Moreover, absent your involvement, members would be responsible for establishing their own credentials, data processing systems, and other such functions. This makes you different from "classical" business leagues, such as chambers of commerce and boards of trades, which "chiefly perform services for members collectively... [rather than] perform[ing] specific services for individual members." Id.

Like the organization in the Revenue Ruling 86-98 you neither provide your member's patients access to medical care which would not have been available but for the establishment your negotiated contracts, nor is there any indication that your members provide such care at fees below what is customarily and reasonable charged by members in their private practices without your services. Providing your services may confer indirect and intangible benefits to the medical community as a whole; however, it does not outweigh that the services provide "in form and [in] substance 'particular services for individual persons'" rather than the industry or line of business. MIB, Inc., at 77.

Based on the information you provided, it appears that your activities, like those of the organizations in Rev. Ruls. 56-65, 66-338, and 74-81, supra, primarily consist of providing particular services for the benefit of your individual members. You relieve members of the burden of obtaining certain services and information on an individual basis, and thus provide them with an economy and convenience in the conduct of their businesses in the form of cost-savings and simplified operations. However, while your activities and services benefit your dues-paying members, non-members do not receive those same benefits. See Louisiana Credit Union League, 693 F.2d 525. The remaining services you provide (e.g., banking incentives) to individual members do not appear to have any relationship to bettering the conditions of the medical community.

You state that you do not operate in a manner similar to organizations carried on for profit. You state that one of your "primary activities is to negotiate third party payer contracts on behalf of [your] membership [and that by] negotiating these contracts on behalf of multiple members, [you] can obtain better terms for each contract." You further state that members are responsible for their own administrative claims services, and that you do not have a fee schedule. You claim "[t]his demonstrates the fact that [you] do[] not operate in a manner similar to organizations carried on for profit, but rather for the benefit of [your] members...which in turn improves the business conditions in the medical profession of Region." Despite these assertions, the centralized credentialing, negotiation, and informational services that you provide to your members, in addition to the access you provide to discounts for legal, insurance and other expenses, all resemble the types of activities that are typically carried on by a for-profit enterprise. You offer many of the same member-services as the organization in Louisiana Credit Union League, 693 F.2d 525. And like that organization, your services are not unique, but, rather, are available commercially. See also Apartment Operators Ass'n, 136 F.2d 435.

A § 501(c)(6) organization is a membership organization characteristically supported by dues. While such an organization may receive a substantial portion or even the primary part of its income from non-member sources, membership support, both in the form of dues and involvement in the organization's activities, must be at a meaningful level. Your services and other activities greatly exceed the revenue from dues and steadily increase. This lends to your activities being similar to one of a business regularly engaged or carried on for a profit, as opposed to those typical of a business league. As in Bluetooth Sig Inc., 611 F.3d 617, your activities do not promote a common business interest with inherently group benefits.

### Conclusion

Based on the above, you do not qualify for exemption as an organization described in § 501(c)(6) of the Code and you must file federal income tax returns.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination.

Your protest statement should be accompanied by the following declaration:

*Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.*

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at [www.irs.gov](http://www.irs.gov), Forms and Publications.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to this address:

Internal Revenue Service

1111 Constitution Ave, N.W.  
Washington, D.C. 20224

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Karen Schiller  
Acting Director, Exempt Organizations  
Rulings and Agreements